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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,124	07/02/2003	David E. Dugger	28498.00	3889

22465 7590 09/22/2004

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KNOXVILLE, TN 37950-1295

EXAMINER

THISSELL, JENNIFER I

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/612,124

Applicant(s)

DUGGER, DAVID E.

Examiner

Jennifer I Thissell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-18 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/2/03.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****Claim Objections***

Claims 1-18 are objected to as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 7, and 13, the language between the preamble and certain portions of the body of the claim is inconsistent. For example, the preamble of claim 1 sets forth the subcombination “corner guard”. However, line 13 of the claim recites “said tile cover protectively *covers* the tiles”, and line 15 recites “said edge guard protectively *covers* the intersection of side walls”, which sets forth a positive relationship between the corner guard and the tiles, and the edge guard and the tiles, and thus appears to claim a combination. Applicant should note that the claims that have inconsistent language are being considered as having been drawn to the subcombination of the “corner guard”. If it is indicated by amendment that the combination is the intention, the language throughout must be made consistent, i.e. the claims must be amended to recite positive recitation of the combination throughout. Otherwise, the language must be changed to “said tile cover is adapted to cover the tiles” or similar.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 7, 8, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishikawa (JP 02-161063). Ishikawa teaches a corner guard (page 482, figure b) having a bent edge guard 8 with a base end, a ledge 9 formed integrally with the base end and extending a width outwardly from the base end, and a tile cover 7 integrally depending downwardly from the ledge. The edge guard includes two strips with elongated lengths extending from the base end to upper ends, the tile cover has side segments 7a,7b with a width.

Since Ishikawa shows or discloses all of the structural limitations of the invention, the structure is capable of performing all of the functions of the corner guard.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6, 9-12, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa (JP 02-161063). Ishikawa teaches a structure as stated above, but does not specify that the width of the side segments is between about 2-3 inches and the length is between 5-6 inches, that the edge guard strips include a width to cover at least one inch and a length of between about 10-20 inches, or that the ledge includes a width of 1/4-3/4 inch. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select dimensions in the stated ranges, since discovering the optimum range is considered routine in the art. The dimensions of the structure could be modified according to the size of the elements to be covered.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I Thissell whose telephone number is (703) 306-5750. The examiner can normally be reached on Mondays and Tuesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (703) 308-

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0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Carl D. Friedman  
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